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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,101	01/20/2004	David R. Loveday	1999U026.RE.US	4294
25959 7590 01/03/2008 UNIVATION TECHNOLOGIES LLC 5555 SAN FELIPE, SUITE 1950 HOUSTON, TX 77056			EXAMINER CHEUNG, WILLIAM K	
			ART UNIT 1796	PAPER NUMBER
			MAIL DATE 01/03/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/761,101	<b>Applicant(s)</b> LOVEDAY ET AL.	
	<b>Examiner</b> William K. Cheung	<b>Art Unit</b> 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 August 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-12,15,17 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-12,15,17 and 19-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Request for Continued Examination***

1. The request filed on August 30, 2007 for a Request for Continued Examination (RCE) under 37 CFR 1.53(d) based on parent Application No. 10/761,101 is acceptable and a RCE has been established. An action on the RCE follows. Claims 1, 3-12, 15, 17, 19-21 are pending.
2. In view of Oath filed August 30, 2007, the non-compliance issue of the oath filed has been resolved. Therefore, the objection of Claims 1, 3-12, 15, 17, 19-21 due to the non-compliance issue is withdrawn.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 2 recites the limitation "solution, suspension or a emulsion" in line 4 is considered indefinite. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1, 3-12, 15, 17, 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Sugimura et al. (JP 10-330412), English translated.

Sugimura et al. (page 4, claim 1) disclose a catalyst substantially identical to the catalyst as claimed. Sugimura et al. (page 14, 0034) clearly disclose a metallocene catalyst comprising a Group 4 metal. Regarding the ratio of the components, Sugimura et al. (page 67, 0201-0202) clearly teach the molar ratios ranging from 0.02 to 100, preferably from 0.05 to 50, and the ratios of transition metal atoms in components A and B ranging from 0.01 to 5000, preferably from 0.05 to 2000. Further, Sugimura et al. (page 66, 0199) disclose a polymerization process comprising olefins and the catalyst described. Sugimura et al. (page 66, 0200) disclose that the polymerization process is a solution or suspension polymerization process. Since Sugimura et al. contain all the features of claims 1, 3-12, 15, 17, 19-21, claims 1, 3-12, 15, 17, 19-21 are anticipated.

7. Claims 1, 3-12, 15, 17, 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Sugimura et al. (JP 10-330416).

Sugimura et al. (page 9, 0067) disclose a catalyst substantially identical to the catalyst as claimed. Further, Sugimura et al. (page 28, 0172) disclose that the polymerization process is a solution or suspension polymerization process. Since

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Sugimura et al. contain all the features of claims 1, 3-12, 15, 17, 19-21, claims 1, 3-12, 15, 17, 19-21 are anticipated.

8. Claims 1, 3-12, 15, 17, 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Imuta et al. (WO 98/34961).

Imuta et al. (abstract) disclose an olefin polymerization process comprising a catalyst that is substantially identical to the catalyst as claimed. Further, Imuta et al. (abstract) disclose that the polymerization process is a slurry process with aliphatic or alicyclic hydrocarbon. Since Imuta et al. contain all the features of claims 1, 3-12, 15, 17, 19-21, claims 1, 3-12, 15, 17, 19-21 are anticipated.

9. Claims 1, 3-12, 15, 17, 19-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Imuta et al. (US 6,255,419).

Imuta et al. (abstract) disclose an olefin polymerization process comprising a catalyst that is substantially identical to the catalyst as claimed. Further, Imuta et al. (col. 80, line 27-32) disclose that the polymerization process is either a liquid phase polymerization process including solution polymerization and suspension polymerization, or gas phase polymerization. Since Imuta et al. contain all the features of claims 1, 3-12, 15, 17, 19-21, claims 1, 3-12, 15, 17, 19-21 are anticipated.

### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William K Cheung whose telephone number is (571) 272-1097. The examiner can normally be reached on Monday-Friday 9:00AM to 2:00PM; 4:00PM to 8:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David WU can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William K. Cheung, Ph.D.

Primary Patent Examiner

November 13, 2007

**WILLIAM K. CHEUNG**  
**PRIMARY EXAMINER**